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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,514	01/26/2001	Oscar A. Mondragon	SAPO0002	6115
22862 7590 03/13/2008 GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025				
EXAMINER				
JANVIER, JEAN D				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
03/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/769,514

Applicant(s)

MONDRAGON, OSCAR A.

Examiner

JEAN JANVIER

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- 7) ☐ Paper No(s)/Mail Date: ____

DETAILED ACTION

Response to Applicant's Arguments

This is a Supplemental Office Action. As agreed during the interview, the Applicant was supposed to amend claim 1 to thereby overcome a potential 112(2) problem triggered by the use of auxiliary verb “may” and “and/or”. Since the corrections, as discussed during the interview, were not made for no apparent reason, the Examiner is now issuing the 112(2). Thus, the Applicant's arguments regarding the art rejection are moot in the meantime. Here, the Examiner reserves the right to make the next Office Action final if need be.

Claim Status

Claims 1-9 and 13 are currently pending in the Instant Application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 (including its dependent claims) is rejected under 35 USC 112(2) for being indefinite. Indeed, the claim recites the terms “**and/or**”. Here, it is unclear whether the limitation that follows “**and/or**” is preceded by “**and**” or “**or**”.

Further, claim 1 (including its dependent claims) is rejected under 35 USC 112, second paragraph as being indefinite. Indeed, the claim recites the auxiliary verb “may”, which when used in a claim language creates a sense of uncertainty.

Conclusion

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally

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be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

03/03/08

/J. J./

Primary Examiner, Art Unit 3622

/Jean D. Janvier/

Primary Examiner, Art Unit 3622

Application Number**Application/Control No.**

09/769,514

Examiner

JEAN JANVIER

**Applicant(s)/Patent under
Reexamination**

MONDRAGON, OSCAR A.

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